Supreme Court, U.S.
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No. 00-74

IN THE
SUPREME COURT OF THE UNITED STATES

PATRICIA SCOTT,

Petitioner,

v.

CLAY COUNTY, TENNESSEE, *et al.*,

Respondents.

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SIXTH CIRCUIT

RESPONDENTS' BRIEF IN OPPOSITION

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REASONS FOR DENYING THE WRIT

The Petition raises issues regarding qualified immunity and potential liability of a governmental entity whose agents have been found entitled to qualified immunity, also suggesting that the facts should be revisited or weighed in this case.

Respondents respectfully submit that the ruling below actually does not place any of these matters at issue.

I.

BINDING PRECEDENT AND PETITIONER'S OWN VERSION OF FACTS SUPPORT THE RULING BELOW

Pursuing their appeal in the Sixth Circuit, Respondents expressly adopted and relied upon statements of fact that either were agreed to by Petitioner herself in the trial court or that were totally undisputed. Without debating legal standards that otherwise might apply and that may indeed be more favorable, Respondents simply pointed out that their conduct explicitly conformed to the standard enunciated by the Sixth Circuit in *Smith v. Freland*, 954 F.2d 343 (6th Cir. 1992).

Law officers are not afforded the luxury of having legal counsel with them on nights such as the one in question, when they are required to make decisions about employment of force. Yet here Respondents adhered to the *Smith v. Freland* standard, which existed specifically to guide them in this type of situation. The essential holding of the Sixth Circuit, following the rule in *Smith v. Feland*, is that Respondents acted reasonably as a matter of law, and not that a constitutional violation occurred but the individual officers were protected by qualified immunity.

II.

A GOVERNMENTAL ENTITY CANNOT BE LIABLE WHEN ITS OFFICERS COMMITTED NO VIOLATION

Petitioner contends that potential liability of Respondent Clay County, Tennessee, still should be considered even though individual officers employed by the County might be afforded qualified immunity. With all due respect, this contention also misapprehends the essential holding of the Sixth Circuit. No such debate is proper where officers, under binding precedent, acted reasonably as a matter of law and did not commit any constitutional violation.

III.

THERE IS NO BASIS UPON WHICH TO REVISIT OR WEIGH EVIDENCE NOT SUBJECT TO REAL DISPUTE

Finally, the Petition requests consideration of this case in light of *Reeves v. Sanderson Plumbing Products, Inc.*, 120 S. Ct. 2097 (2000). Initially this suggestion is premised upon the ill-founded proposition that qualified immunity is actually at issue. Even aside from that consideration, the problem here is that no facts are raised to conceivably justify revisiting or weighing the evidence in this case.

The only potential suggestion made by Petitioner is that Respondents may have lied in recounting the facts, and cross-examination at a trial may reveal them as liars. No facts support this contention in the record. If such a bare proposition has merit, summary judgment never can be proper.

IV.

CONCLUSION

Respondents contend that the Petition for a Writ of Certiorari should be denied.

Respectfully Submitted,

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